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Canada, Fiji, Ghana, Guyana, Iceland, India, Iran, New Zealand,
Philippines and Spain: draft articles on zonal approach to the
preservation of the marine environment

These draft articles do not necessarily represent the full or final position of the co-sponsors, are without prejudice to declared national positions, and do not imply withdrawal of the proposals submitted, individually or jointly, by some of the above-named States or substitution of such proposals or national positions by the present draft articles.

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I

States have the obligation to protect and preserve the marine environment.

II

1. States shall co-operate on a global basis and as appropriate on a regional basis, directly or through competent international organizations, global or regional, to formulate and elaborate treaties, rules, standards and recommended practices and procedures consistent with this Convention for the prevention of marine pollution, taking into account characteristic regional features, the economic capacity of developing countries and their need for economic development.

2. States with interests in the marine environment of a region or geographically common area should co-operate in formulating common policies and measures for the protection of such regions or areas. States should endeavour to act consistently with the objectives and provisions of such policies and measures.

III

1. States shall take all necessary measures to prevent pollution of the marine environment from any source, using for this purpose the best practicable means in accordance with their capabilities, individually or jointly, as appropriate, and according to their own environmental policies

2. States shall take all necessary measures to ensure that activities under their jurisdiction or control do not cause damage to areas beyond their national jurisdiction, including damage to other States and their environment, by pollution of the marine environment.

3. The measures taken pursuant to these articles shall deal with all sources of pollution of the marine environment, whether air, land, marine, or any other sources. They shall include inter alia:

(a) In respect of land-based sources of pollution of the marine environment, including rivers, estuaries, pipelines and outfall structures, measures designed to minimize the release of noxious and harmful substances, especially persistent substances, into the marine environment, to the fullest possible extent;

(b) In respect of pollution from vessels, measures relating to the prevention of accidents, the safety of operations at sea and intentional or other discharges, including measures relating to the design, equipment, operation and maintenance of vessels, especially of those vessels engaged in the carriage of hazardous substances whose release into the marine environment, either accidentally or through normal operation of the vessel, would cause pollution of the marine environment;

(c) In respect of pollution from installations or devices engaged in the exploration and exploitation of the natural resources of the sea-bed and subsoil, measures for the

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prevention of accidents and the safety of operations at sea, and especially measures related to the design, equipment, operation and maintenance of such installations and devices; and

(d) In respect of pollution from dumping by vessels, aircraft and fixed or floating platforms, measures for prohibiting or regulating such dumping.

IV

In taking measures to prevent marine pollution, States shall guard against the effect of transferring damage or hazard from one area to another.

V

Nothing in these articles shall derogate from the sovereign right of a State to exploit its own resources pursuant to its environmental policies and in accordance with its duty to protect and preserve the marine environment both in its own interests and in the interests of mankind as a whole.

VI

The coastal State has in and throughout its economic zone (hereinafter referred to as the "zone") the rights and duties specified in these articles for the purposes of protecting and preserving the marine environment and preventing and controlling pollution.

VII

1. Within the zone, the coastal State shall have jurisdiction, in accordance with these articles, to establish and adopt laws and regulations and to take administrative and other measures in respect of the activities of all persons, natural and juridical, vessels, installations and other entities for the purposes set out in article VI.

2. The coastal State shall have the right to enforce in the zone laws and regulations enacted in accordance with paragraph 1 of this article.

3. (a) In respect of pollution of the marine environment from land-based sources and from installations or devices engaged in the exploration and exploitation of the natural resources of the sea-bed and subsoil, the laws and regulations of the coastal State shall take into account internationally agreed rules, standards and recommended practices and procedures.

(b) (i) In respect of ship-generated pollution, the laws and regulations of the coastal State shall conform to internationally agreed rules and standards.

(ii) Where internationally agreed rules and standards are not in existence or are inadequate to meet special circumstances, coastal States may adopt reasonable and non-discriminatory laws and regulations additional to or more stringent than the relevant internationally

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agreed rules and standards. However, coastal States may apply stricter design and construction standards to vessels navigating in their zones only in respect of waters where such stricter standards are rendered essential by exceptional hazards to navigation or the special vulnerability of the marine environment, in accordance with accepted scientific criteria. States which adopt measures in accordance with this subparagraph shall notify the competent international organization without delay, which shall notify all interested States about these measures.

VIII

The coastal State shall exercise its rights and perform its duties in the zone with regard to the preservation of the marine environment without undue interference with other legitimate uses of the sea, including, subject to the provisions of this Convention, the laying of cables and pipelines.

IX

In the zone, ships and aircraft of all States, whether coastal or not, shall enjoy freedom of navigation and overflight subject to the exercise by the coastal State of its rights within the zone, as provided for in this convention, with regard to the preservation of the marine environment.

(Further articles in elaboration of the zonal approach will be required, including provision for the peaceful settlement of disputes, special areas, intervention, liability, the relationship of these articles with other international conventions, and mechanisms for the establishment of rules and standards.)
